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SENATE BILL 934

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO PUBLIC EMPLOYEES; PERMITTING A RETIRED STATE POLICE MEMBER OR A RETIRED POLICE MEMBER TO GO BACK TO WORK TO TAKE THE PLACE OF A PUBLIC EMPLOYEE CALLED TO ARMED FORCES ACTIVE DUTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--SUSPENSION. --

A. A member may retire upon fulfilling the following requirements:

(1) a written application for normal retirement, in the form prescribed by the association, is filed with the association prior to the selected date of retirement;

(2) employment is terminated with all

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1 employers covered by any state system or the educational  
2 retirement system prior to the selected date of retirement;

3 (3) the member selects an effective date of  
4 retirement that is the first day of a calendar month; and

5 (4) the member meets the age and service  
6 credit requirement for normal retirement specified in the  
7 coverage plan applicable to the member.

8 B. The amount of normal retirement pension is  
9 determined in accordance with the coverage plan applicable to  
10 the member.

11 C. If a member retires and is subsequently employed  
12 by any affiliated public employer, the retired member's pension  
13 will be suspended effective the first day of the month  
14 following the month in which the previously retired member  
15 earns one hundred percent or more of the amount that causes a  
16 decrease or suspension of an old age benefit under the federal  
17 social security program or fifteen thousand dollars (\$15,000),  
18 whichever is less. When the pension is suspended, the  
19 following conditions shall apply:

20 (1) the retired member who is subsequently  
21 employed by an affiliated public employer shall become a  
22 member. The previously retired member and the subsequent  
23 affiliated public employer shall make the required employee and  
24 employer contributions, and the previously retired member shall  
25 accrue service credit for the period of subsequent employment;

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1 and

2 (2) when a previously retired member  
3 terminates the subsequent employment with an affiliated public  
4 employer, he shall retire according to the provisions of the  
5 Public Employees Retirement Act, subject to the following  
6 conditions:

7 (a) payment of the pension shall resume  
8 in accordance with the provisions of Subsection A of this  
9 section;

10 (b) unless the previously retired member  
11 accrued at least three years of service credit on account of  
12 the subsequent employment, the recalculation of pension shall:  
13 1) employ the form of payment selected by the previously  
14 retired member at the time of the first retirement; and 2) use  
15 the provisions of the coverage plan applicable to the member on  
16 the date of the first retirement; and

17 (c) the recalculated pension shall not  
18 be less than the amount of the suspended pension.

19 D. The provisions of Subsection C of this section  
20 shall not apply to a retired member who is appointed chief of  
21 police of an affiliated public employer, other than of the  
22 affiliated public employer from which retired, or who is  
23 appointed undersheriff if the retired member files an  
24 irrevocable exemption from membership with the association  
25 within thirty days of appointment. For purposes of this

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1 subsection, each sheriff's office shall be limited to one  
2 undersheriff. The irrevocable exemption shall be for the chief  
3 of police's or the undersheriff's term of office. Filing of an  
4 irrevocable exemption shall irrevocably bar the retired member  
5 from acquiring service credit for the period of exemption from  
6 membership.

7 E. The provisions of Subsection C of this section  
8 shall not apply to any retired member who is subsequently  
9 employed by an employer who is not an affiliated public  
10 employer.

11 F. The provisions of Subsection C of this section  
12 shall not apply to a retired member who is elected to serve a  
13 term as an elected official if the retired member files an  
14 irrevocable exemption from membership with the association  
15 within thirty days of taking office. Filing of an irrevocable  
16 exemption shall irrevocably bar the retired member from  
17 acquiring service credit for the period of exemption from  
18 membership.

19 G. At any time after June 30, 2003 and prior to  
20 January 1, 2005, the provisions of Subsection C of this section  
21 shall not apply to any retired state police member or retired  
22 municipal police member who is reemployed as an officer by the  
23 New Mexico state police or as a police officer by an affiliated  
24 public employer other than the state to temporarily fill a  
25 vacant position resulting from a member's activation pursuant

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1 to a federal call to active military duty and deployment in  
2 response to an international crisis relating to terrorism, a  
3 peacekeeping mission or any other declared national emergency.  
4 The retired state police member or municipal police member  
5 shall file a limited exemption from membership with the  
6 required employer certification verifying temporary  
7 reemployment with the association within thirty days of  
8 reemployment. Filing of a limited exemption shall irrevocably  
9 bar the retired state police member or municipal police member  
10 from acquiring service credit for the period of exemption from  
11 membership. A limited exemption filed under the provisions of  
12 this subsection shall expire on or before January 1, 2005.

13           ~~[G.]~~ H. The pension of a member who has three or  
14 more years of service credit under each of two or more coverage  
15 plans shall be determined in accordance with the coverage plan  
16 that produces the highest pension. The pension of a member who  
17 has service credit under two or more coverage plans but who has  
18 three or more years of service credit under only one of those  
19 coverage plans shall be determined in accordance with the  
20 coverage plan in which the member has three or more years of  
21 service credit. If the service credit is acquired under two  
22 different coverage plans applied to the same affiliated public  
23 employer as a consequence of an election by the members,  
24 adoption by the affiliated public employer or a change in the  
25 law that results in the application of a coverage plan with a

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1 greater pension, the greater pension shall be paid a member  
2 retiring from the affiliated public employer under which the  
3 change in coverage plan took place regardless of the amount of  
4 service credit under the coverage plan producing the greater  
5 pension, provided the member has three or more years of  
6 continuous employment with that affiliated public employer  
7 immediately preceding or immediately preceding and immediately  
8 following the date the coverage plan changed. The provisions  
9 of each coverage plan for the purpose of this subsection shall  
10 be those in effect at the time the member ceased to be covered  
11 by the coverage plan. "Service credit", for the purposes of  
12 this subsection, shall be only personal service rendered an  
13 affiliated public employer and credited to the member under the  
14 provisions of Subsection A of Section 10-11-4 NMSA 1978.  
15 Service credited under any other provision of the Public  
16 Employees Retirement Act shall not be used to satisfy the  
17 three-year service credit requirement of this subsection."

18 Section 2. EFFECTIVE DATE. --The effective date of the  
19 provisions of this act is July 1, 2003.

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